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December 18, 2007

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Supervisors:

RESOLUTION IMPLEMENTING SENATE BILL 1184 AMENDING SECTION 664 OF AND ADDING SECTION 831.7 TO THE CALIFORNIA PENAL CODE (3 VOTES)

IT IS RECOMMENDED THAT YOUR BOARD:

Adopt the Resolution to enact the provisions of Senate Bill (SB) 1184 which amends California Penal Code Section 664 and adds Section 831.7. This action makes the penalty of attempted murder of a custody assistant, or similar non-sworn uniformed Sheriff's employee, the same as the penalty for attempted murder of a custodial officer and creates the category of custody assistant.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On September 26, 2006, the Governor signed into law SB 1184 (Chapter 468, Statutes of 2006). This bill added Section 831.7, Custody Assistants in Counties of the First Class and amended Section 664, Attempt of the California Penal Code.

Existing law defines various types of peace officers and public officers including custodial officers. This law defines and creates a category of custody assistant in the California Penal Code. This law also provides that the elements defining the crime of attempted murder of a police officer, firefighter, or custodial officer and the penalties therefore, shall now apply to the attempted murder of a custody

assistant, or a non-sworn uniformed employee of a Sheriff's Department, whose job entails the care or control of inmates in a detention facility.

The purpose of this recommended action is for your Board to provide the required approval, adopt the attached resolution and therefore enact this legislation in Los Angeles County. This resolution has been approved as to form by County Counsel.

IMPLEMENTATION OF STRATEGIC PLAN GOALS

This recommended action is consistent with the Countywide Strategic Plan Goal 8, Public Safety. Custody assistants perform similar duties as custodial officers within jails and thus the penalty for the crime of attempted murder against a custody assistant should be the same.

FISCAL IMPACT/FINANCING

There is no impact to net County cost.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

In 2005, the Governor signed into law AB 999, which amended the California Penal Code to include custodial officers to Section 664 dealing with the attempted murder of a peace officer or firefighter. Section 664 now makes attempted murder of a custodial officer punishable by imprisonment in State prison for life with the possibility of parole or by 15 years to life if it is proven that the attempt was premeditated.

Prior to AB 999 being signed into law it was discovered that custody assistants were inadvertently omitted from the bill. Custody assistants are regularly employed non-sworn uniformed members of the Los Angeles County Sheriff's Department whose job is similar in nature to those of "custodial officers". Custody assistants work in custody detention facilities and are responsible for inmate care and handling.

SB 1184 corrects this oversight by adding "custody assistant" to Section 664 of the California Penal Code. It also adds language to address any other job classification anywhere in the state that is similar in nature to those duties and responsibilities of a custody assistant or custodial officer.

Additionally, SB 1184 creates California Penal Code Section 831.7 to clearly define "custody assistant" in law. The custody assistant definition applies only to counties of the first class as defined by Government Code Section 28020 and 28022 and as a result only applies to Los Angeles County.

California Penal Code Section 831.7 was added to read, in part:

- (a) As used in this section, a custody assistant is a person who is a full-time employee, not a peace officer, employed by the county sheriff's department who assists peace officer personnel in maintaining order and security in a custody detention, court detention, or station jail facility of the sheriff's department. A custody assistant is responsible for maintaining custody of prisoners and performs tasks related to the operation of a local detention facility used for the detention of persons usually pending arraignment or upon court order either for their own safekeeping or for the specific purpose of serving a sentence therein. Custody assistants of the sheriff's department shall be employees of, and under the authority of, the sheriff.

California Penal Code Section 664 was amended to provide:

- (e) Notwithstanding subdivision (a), if attempted murder is committed upon a peace officer or firefighter, as those terms are defined in paragraphs (7) and (9) of subdivision (a) of Section 190.2, a custodial officer, as that term is defined in subdivision (a) of Section 831 or subdivision (a) of Section 831.5, a custody assistant, as that term is defined in subdivision (a) of Section 831.7, or a non-sworn uniformed employee of a sheriff's department whose job entails the care and control of inmates in a detention facility, as defined in subdivision (c) of Section 289.6, and the person who commits the offense knows or reasonably should know that the victim is a peace officer, firefighter, custodial officer, custody assistant, or non-sworn uniformed employee of a sheriff's department engaged in the performance of his or her duties, the person guilty of the attempt shall be punished by imprisonment in the state prison for life with the possibility of parole.

IMPACT ON CURRENT SERVICES

The recommended action will have no direct or significant impact on current services.

CONCLUSION

As the jail system is becoming more populated with violent criminals, it has become necessary to amend existing law to provide additional protections to those persons responsible for the care and control of inmates. Custody assistants are a vital part of the operation of the Los Angeles County jail system and need the necessary protection to perform their jobs properly. This legislation is a small part in making their jobs a little safer.

The provisions of this bill relating to custody assistants require the adoption of a resolution by the Board of Supervisors. Your Board has not yet been presented with an enabling resolution. Consequently, this legislation has not been enacted in Los Angeles County. It is, therefore, our recommendation that the Board adopt the attached resolution.

If you have any questions or require additional information, please contact Deputy Chief Executive Officer Doyle Campbell, Public Safety, at (213) 893-2374.

Respectfully,



WILLIAM T FUJIOKA
Chief Executive Officer

WTF:SRH:RDC
JW:SW:yjf

Attachment

c: Sheriff's Department

SB1184.bl

RESOLUTION

WHEREAS, under current law, the crime of attempted murder of a police officer, firefighter or custodial officer does not include the category of custodial assistants; and

WHEREAS, SB 1184 (Cedillo) was signed by the Governor to become effective on January 1, 2007, which makes the penalty of attempted murder of a custody assistant, similar non-sworn uniformed Sheriff's employee, the same for attempted murder of a custodial officer and to create the category of custody assistant; and

WHEREAS, these provisions become operative upon adoption of a resolution by a majority vote of Board of Supervisors.

NOW, THEREFORE, BE IT RESOLVED that the Los Angeles County Board of Supervisors hereby adopts this resolution adding section 831.7 of the Penal Code and amending section 664 of the Penal Code to become operative in Los Angeles County.

ADOPTED by the Board of Supervisors of the County of Los Angeles on 18th day of December, 2007.



SACHI A. HAMAI, Executive Officer
Clerk of the Board of Supervisors of the
County of Los Angeles

By: _____

Deputy

APPROVED AS TO FORM:

RAYMOND G. FORTNER, JR.
County Counsel

By: _____

PAUL YOSHINAGA
Principal Deputy County Counsel